

# DOES CAPITAL PUNISHMENT TEND TO STOP MURDER?

Many States Already Have Abandoned Death Penalty Without Increase in Major Crime, but Accurate Figures Are Lacking

NINE men out of any chance ten will say, if the question is put to them, that they favor the abolition of capital punishment for men convicted of murder or treason, while the tenth man, opposing said abolition, will give as a reason that the death sentence carried out acts as a deterrent of these horrid crimes.

With a proportion as great as this, showing how people generally view the punishment of criminals, the apathy displayed when the subject comes up for discussion, as it is sure to do every once in a while, is surprising. The surprise is less, however, when it is recalled that arguments for and against capital punishment are not novel and people have grown apathetic in listening to them recurrently.

The various societies having in view human welfare are not primarily interested; they are willing and sometimes eager to cooperate in any movement to reduce this final penalty to imprisonment for life, but they do not take the lead.

The movement, in consequence, is spasmodic. What seems to be required is a leader who can or will think and work for nothing else, some Peter the Hermit kind of reformer who can stir the minds and heat the blood of the Laodiceans.

Even without a Middle Age reformer there have been processes at work to arouse feeling in the matter and to start a sort of crusade. One thing accomplished in these processes was to show the backwardness. There are now twelve States of the Union where capital punishment has been abolished; there are twenty-four States that leave it to the discretion of judge or jury whether or not capital punishment shall be inflicted, and there are twelve States in which capital punishment is the penalty for murder in the first degree.

## How the Code on Murder

### Varies in the Several States

The following are the penal codes of the States showing a penalty inflicted for murder in the first degree:

Hanging is prescribed in Connecticut, Delaware, Florida, Georgia, Missouri, New Mexico and Hawaii.

Hanging or life imprisonment may be the punishment for this crime in Alabama, California, Colorado, Idaho, Iowa, Louisiana, Maryland, Mississippi, Montana, New Hampshire, Oregon, West Virginia, Wyoming, Alaska and Porto Rico.

Illinois offers the same choice, but imprisonment may be any term from fourteen years to life, and Texas may condemn by hanging or a term of imprisonment not less than five years.

There are eight States where murderers are put to death by electricity: Arkansas, Massachusetts, Nebraska, New Jersey, New York, North Carolina, Pennsylvania and Vermont.

Indiana, Kentucky, Ohio, Oklahoma and South Carolina may impose either death by electricity or life imprisonment.

Life is the ultimate penalty in the following States: Arizona, Kansas, Maine, Michigan, Minnesota, North Dakota, Rhode Island, South Dakota, Tennessee, Washington and Wisconsin.

Death or life imprisonment, and in case of the latter a choice between hanging and shooting, is Utah's penal code.

Nevada has recently adopted the killing of murderers by lethal gas.

A jury may fix term of imprisonment in Tennessee.

A jury may find for death in Washington.

In New Jersey and Oregon, unless a jury explicitly recommends life imprisonment, the penalty is death.

This list will serve to show that the Empire State has lagged behind several Far Western States in what the majority of the people of this country have plainly said was a humanitarian way of dealing with criminals who have taken human life.

In 1920 a movement was headed by State

Senator J. J. Boylan to pass a bill in the Legislature abolishing the death penalty. In an effort to advance this Boylan bill from general orders to order of final passage, it was defeated by a narrow margin. The Pellett companion bill in the Assembly notwithstanding the measure was advocated by penologists and civic bodies, and by virtually every prison reform and humanitarian society in the State.

## Awaits End of Crime Wave Before Urging Bill Again

In speaking of a new campaign to abolish the death penalty Senator Boylan said that he had been in the past year receiving encouraging letters and offers of assistance from societies doing humanitarian and welfare work all over the State. That he did not bring up the bill again or endeavor to introduce a similar one was because he thought the time inauspicious.

"While the crime wave has been sweeping the country, as observers have said is always the case following a great war," said the Senator, "seemed a poor time to try to lessen any punishment or to weaken the penal code by a softening measure. Men's minds are not as a usual thing ready to listen to such reforms under these circumstances."

"But we are not discouraged and we hope to bring New York into the van of progressive States. The Society for the Abolition of the Death Penalty of Buffalo, the Society of Friends of New York, ex-Assemblyman William Pellett, Sheriff David Knott, Mrs. Henry Villard, Mrs. Grace Humiston, Mrs. Pauline O. Field and many other societies and individuals who aided us in our fight in 1920 have assured us of their continued support and we are only awaiting a favorable opportunity to begin over again."

"Whoever has followed the subject in other States and in other countries realizes that the history of capital punishment shows an evolution toward the gradual restriction of its use everywhere, and this will—I think it must—lead gradually to its abolishment."

"The six great reasons for the abolishment of the death penalty have figured in our campaign since the beginning of our activity, but they have not lost force by reiteration. And as a fact they have acquired added force by new instances occurring in this and other States where this barbarism still prevails."

The reasons given by Senator Boylan are:

1. Capital punishment does not deter commission of murder. There are fewer murders per capita in States which have abolished the death sentence.

2. Innocent persons have been executed and are liable to be, for perjured evidence is always a possibility. When such persons are killed by the State the latter becomes a murderer of the worst kind.

3. Two or more men organized under a form of government have no more right to take life than one man has.

4. Capital punishment is a relic of barbarism and to abolish it would be a step forward.

5. Capital punishment deprives the criminal of the one thing due which civilized society owes its criminals—the chance for spiritual reformation and expiation to prepare for the hereafter.

6. Life imprisonment is a severer and juster punishment for a murderer than to be given early his earthly quietus.

It is Senator Boylan's conviction that unless New York State shall hasten to get into line it will be among the last of the civilized parts of the earth to retain this barbarous form of executing the law.

"Everywhere it is seen that repugnance grows to capital punishment and wherever it is left to a jury a death sentence is seldom passed. Almost invariably, if it be left to them, a jury will make a murderer's sentence life imprisonment. This distinctly shows what is the frame of mind of the ordinary citizen. It is opposed to

## HOW THE PENAL CODES OF THE STATES DEAL WITH MURDERERS.

### DEATH BY ELECTRICITY.

Arkansas, Massachusetts, Nebraska, New Jersey, New York, North Carolina, Pennsylvania, Vermont.

### DEATH BY ELECTRICITY OR LIFE IMPRISONMENT.

Indiana, Kentucky, Ohio, Oklahoma, South Carolina.

### DEATH BY THE GALLOWES.

Connecticut, Delaware, Florida, Georgia, Missouri, New Mexico, Hawaii.

### DEATH BY HANGING OR LIFE IMPRISONMENT.

Alabama, California, Colorado, Idaho, Iowa, Louisiana, Maryland, Mississippi, Montana, New Hampshire, Oregon, West Virginia, Wyoming, Alaska, Porto Rico.

### DEATH BY HANGING, OR IMPRISONMENT FROM 14 YEARS TO LIFE.

Illinois.

### DEATH BY HANGING OR A TERM OF IMPRISONMENT NOT LESS THAN FIVE YEARS.

Texas.

### DEATH BY HANGING OR SHOOTING OR LIFE IMPRISONMENT.

Utah.

### DEATH BY LETHAL GAS.

Arizona, Kansas, Maine, Michigan, Minnesota, North Dakota, Rhode Island, South Dakota, Tennessee, Washington, Wisconsin.

### DEATH BY JURY VERDICT.

### DEATH BY HANGING.

District of Columbia.

the death penalty. Only a ruthless individual, or one who has not thought out the matter carefully, now defends the practice."

## More Than 3,000 Executions In the Last Twenty-eight Years

The Senator uses in his arguments for the abolishment certain figures that are stupefying. These show that during the past twenty-eight years over 3,000 men in the United States have been put to death. He brings in illustration of the evil effects of death by law the case of the recent public hanging in the county jail of Chicago.

"We all remember," said he, "what a wave of indignation swept over this country when we read in the public press that the Sheriff of Cook county had all the prisoners in the penitentiary arranged outside of their cells, where they could witness the hanging of a man in the jail yard. It furnished a theme of horror which if repeated would destroy that capital article in all our penal codes."

Included among those who heartily in-dorse a movement looking to the abolition of the death penalty, according to Senator Boylan, the wardens of every one of New York State prisons. The late Warden Homer of Great Meadow Prison and the late Warden Twombly of Dannemora were active in promoting it, and carrying on their influence and work for it are Superintendent of Prisons Charles F. Rattigan, Deputy Superintendent of Prisons Long, the State Commission on Prisons and the Prison Reform Association.

Former Attorney-General William S. Jackson has put himself unequivocally on the side of those who would amend the law for the punishment of murderers. He says:

"I think that to such criminals as these violently agitated and miserable human beings the prospect of life imprisonment is far more terrible than speedy death, even though after the crime is committed and counsel taken we commonly see a fight for life. These facts prove nothing on the relative degree of prevention obtained by penalties. We must judge of the operations of the mind before the commission and discovery of the crime, and before the after results of reaction, remorse, fear, the instinct of self-preservation and other considerations have begun to assert themselves."

## Effect of the Example When State Takes a Life

"If we intend to prevent murder by teaching respect for human life, of what value is the example shown by the aggregate of human wisdom, the correlated and self-controlled power, the composite of all the good in the people, when the State takes a solitary convict who is strongly held within prison walls, and the whole majestic people, dispassionately, prayerfully proceed to kill that now harmless wretch, who is yet a human mind and soul. Had the State in such killings a single

one of the conditions or circumstances that made some extenuation in the individual who shed the blood?"

These arguments of Messrs. Boylan and Jackson well epitomize those which are ordinarily brought up in favor of the abolishment of the death penalty, and they are admittedly not new, although they are still persuasive and powerful. Perhaps, however, the best argument is to be found in the fact already referred to, the general amelioration of punishment to some more humane form in all parts of the world.

Cuba has recently abolished the death penalty; a strong agitation pervades Germany and other European States where it is still enforced to do away with it. Ere another century—for it will probably take that long—it is believed that, if the Christian countries of the world go on as they have been doing in this regard, the words garrote, guillotine, hanging, execution and electrocution will be obsolete as the things themselves.

If the death penalty is a deterrent from crime England to-day should be as pure as the driven snow. For six consecutive centuries she meted out the death penalty for every crime in her criminal code, except petty larceny and mayhem. Any theft above petty larceny furnished a public hanging. The result was that the whole system of punishment toppled, and in 1810 it had to be revised. Parliament was forced to remove the death penalty for petty crimes, but it was done only gradually and in the meantime juries refused to convict.

In 1820 there were 222 capital crimes in the penal code of Great Britain. In 1830 there was one—murder in the first degree. In 1861, when the new code was adopted, treason was restored to the death penalty list.

## The United States in Lead In All Sorts of Reform

But a review of what has been done in the United States presents an excellent showing. This country, by and large, has led the world in penal reform. A century ago, when the world's prisons were horrible barred pens where men and women were thrown indiscriminately, Americans built the first cellular, sanitary prison at Philadelphia and revolutionized the world's jails. In 1912 the Prison Farm at Great Meadows, New York, presented the world with another penal reform.

Through these two innovations the United States became a world leader in the regeneration work among criminals. Another reform instituted in New York State, which has since been adopted by other States, was the substitution of the electric chair for the gallows. Nevada has superseded this by the use of lethal gas. As these various innovations lighten the minds of juries and judges, compelled by duty to pass judgment on their fellow men, it is by no means improbable that the death penalty will pass as the preceding

This Country, Leader in Penal Reform, Seemingly Backward in Ending What Opponents Call Middle Age Relic

horrors did, silently it may be, but through the active labors of humanitarians.

The Society for the Prevention of Crime early placed itself by the side of the Society for the Abolition in New York State of capital punishment, and it has been active at various times when the subject was uppermost by whatever kindred society it happened to be broached again and debated. The chief argument this society has used in its efforts to abolish the death penalty for murderers found guilty in the first degree, that is of premeditated murder, was that the death penalty failed to act as a deterrent.

"There is another reason dominating our programme here in the case of murderers," said Howard Clark Barber, who is superintendent of this society, made famous by the Rev. Charles H. Parkhurst, "and that is that we are in possession of evidence which shows that men have been taken off by the State whose conviction was brought about wholly or in part by perjured evidence. While it is not always easy to prove this, there is one case recorded in this office where the proof is conclusive."

"To say that the crime of murder is lessened by the inflation of capital punishment is pure bunk, and everybody who has studied the subject and followed the history of crime in this and other States of the Union knows it. Neither this capital punishment nor the sentence of life imprisonment has a deterrent effect on criminals."

"I grant that if we were able to define absolutely the persons who ought to be removed in this final way from society there might be a reason for continuing this outdated punishment. But we are never able to do this; there is always a lingering doubt. The worst man may not be bad enough to be hustled into eternity as a blessing to society."

## Two Chinamen the Victims

### Of Perjured Evidence at Trial

The case to which Mr. Barber referred was that of the Chinamen, Eng Hing and Lee Dock, who were tried in the spring of 1914 and convicted of murder in the first degree. The attention of the society was called to it while the men were in the death house at Sing Sing, and it investigated and found considerable doubt as to the guilt of the men and as to the legality of their conviction, because of the perjury which had been committed upon their trial.

The Chinamen were about to be executed when the officers of the society took the woman who had been the principal witness against them before Governor Glynn, who after hearing her story relieved them until an application could be made for a new trial. It was held that the recantation of a witness did not constitute "new testimony" and on technical grounds a new trial was denied.

"Later our Court of Appeals," said Mr. Barber, "held that a retraction by a witness was newly discovered evidence within the provisions of the law governing new trials, and if the retraction was credible, was sufficient grounds for granting a new trial. Thus these men were electrocuted, despite the existence of a grave doubt, and a new trial was denied them on technical grounds, which subsequently a higher court in another case held were wrong."

"It is beyond dispute that human life was taken upon what was concededly perjured testimony."

"Our experience in this case has led us to believe that these amendments should be made in the law: Arbitrary capital punishment should be abolished, and, as already provided in many States, the jury should be permitted to determine the penalty for the crime of murder, as between capital punishment and life imprisonment."

"It is doubtful," added the superintendent, "if the Governor of a great State like New York has the time or the facilities for fully and fairly considering each case. Nor should it be permissible for an individual who has been responsible for the conviction of a person for murder to pass final judgment on that person's application for clemency."

There was a compromise to be effected

that had worked favorably in several States, Mr. Barber said. This was to leave the fear of capital punishment as a possibility in the mind of the transgressor.

"This is done by permitting the jury to choose a verdict. It is well known that juries hesitate about pronouncing a verdict with a sentence of death to follow, hence in the States where this power is vested in the jury it is as much as to say that capital punishment has virtually been abolished."

## How the Several Countries Compare in Murder Statistics

Statistics are always a little confusing, but they need to be consulted when a broad statement like the following is made. It is that in the United States more men are put to death than in all the other Christian countries combined. England follows and France is third. England has now but three capital crimes. France has five. Our criminal codes contain eleven capital crimes (varying in different States), which are more than twice as many as those of any other Christian nation. In two of the States a burglar may be sentenced to death, and in three States manslaughter may be punished thus summarily.

The United States has a yearly average of 12 murders for every 100,000 of inhabitants. The decade before Italy's abolition of the death penalty saw nearly 17 murders per 100,000 of its population. The decade after the abolition saw this number reduced to about 11 per 100,000.

Belgium has had no executions since 1863. The decade before the abolition of the death penalty in that country there were 98 murders, the decade after there were 703 murders. Thus in one country it would seem that the death penalty does deter men from murder, while in a neighboring country it has apparently the opposite effect.

The figures nearer home are more vital to us. There have been more murderers executed in New York than in any other State of the Union, yet to-day there are scarcely enough condemned cells in Sing Sing to accommodate the condemned who must there await execution.

These statements and corollary figures were given prominence during the last session of the State Legislature, when many serious minded men and women made a concerted effort to induce that body to abolish capital punishment. In another place the details of their strenuous but unsuccessful campaign are given. The old arguments and the old fear that to abolish the death penalty would mean an increase in the number of murders committed, and that fear of death in the electric chair is the only legal restraint against crimes of violence.

A "lifer" in Sing Sing wrote what he thought of the movement undertaken to abolish the death penalty, and published it in *The Bulletin* of the prison, in the hope, he said, that the views of convicted and reprieved murderers might carry weight with those who fought against the movement. He wrote:

"Some of these men claim to be innocent, convicted by perjured testimony, but others frankly acknowledge their guilt. These say that no thought of the penalty ever entered their minds at the time the crime was committed."

"That the law prescribed death to murderers, all of these men know, but they did not think of how they were to pay when they were committing their crime. Some were crazed with drink, many blinded by passion or jealous rage. All declare that, had the electric chair been before their eyes, it would not have stayed the impulse to kill."

"And all of these men, including those who fought for their lives through the varied stages of legal proceedings, declare there never was a time when they would not have chosen death by execution to life imprisonment."

## New Woman's Hotel Is a Real School

THE Grace Dodge Hotel, which opened October 19 in Washington, D. C., is a first aid to the New Woman, who finds herself frequently torn between the demands to which her position as a citizen and a voter subject her and the maternal responsibilities from which even the New Woman can't always escape. The Grace Dodge Hotel welcomes babies and caters to their needs. That is one unique thing about it, and the other is that its kitchen and offices are to be a laboratory in which earnest young students just graduated from home economics courses in colleges may be polished off by practical experience into expert hotel help.

Mrs. John D. Rockefeller, Jr., chairman of the housing committee of the national board of the Young Women's Christian Association, which committee conceived the idea of this hotel and carried it out, is very keen about the laboratory end of it. Hoping to attract the very highest class of help, she and her committee women saw to it that they should be made comfortable, with pleasant bedrooms, rest rooms, lockers for their wraps and plenty of time for recreation. The five and a half day work week is to be the rule, and, furthermore, employees are not to have their feelings hurt by being tipped. Their wages are very good.

Miss Mary Lindley, manager of this all woman hotel, where the staff, employees and guests all are women, has a background. Her grandfather was the third white child born in New Jersey, and along with family she has experience and sound sense. She did war work in France and has managed huge staffs in public institutions at home. The Y. W. C. A. would match her with Oscar of the Waldorf himself for ability to polish off and perfect hotel help.

# Recollections of the First Moving Picture Ever Shown

By J. I. C. CLARKE.

A RECENT letter of Thomas A. Edison appeared in a newspaper regarding his right to be classed as "the inventor of the modern motion picture." In this letter he states that he invented the mechanism whereby the pictures of an object in motion could be taken in such rapid succession that in reproducing them with similar rapidity the very life of the object and its motion could be seen. He called it the kinetograph. Without it no "modern motion picture" is possible. In the subsequent application of it to the screen he gives the credit due to others.

Let me, then, tell the little I can of the earliest movie that met my marvelling gaze some thirty-five years ago at Edison's laboratory.

From the days of Edison's epochal handling of the problem of electric light, culminating in the A, B, C of the science, namely, what I call the "portable vacuum" lamp, the carbon filament and the divisibility of the direct electric current, we had been friends. I had seen "the wizard of Menlo Park" making his way through the electric light, through his amazing invention of the phonograph and its development, through his improvements of the telephone—I had ridden on his electric car at Menlo Park over a track that took death inviting curves in its third of a mile at a dizzy speed long before there was a trolley line in America.

I had gone with him through his megaphone and microphone period, his trials and dreams of "magnetic ore separation"—to cost him afterward ten solid years of his working life and untold sums of money.

Through all there was the wondrous spectacle of his vivid scientific enthusiasm shared by a small but devoted corps of assistants. He slept little, ate little, thrived, planned and worked night and day. The passion of the Crusader and his warriors was reborn in Edison and his men at Menlo Park.

In the course of a few years the laboratory had been moved to Orange, N. J. I had been admitted to the Edison arcana, and what more natural than that when a young nephew of mine with a strong mechanical

bent came from "the other side" I should ask Edison to take him in and let him work out his salvation in that, to me, foremost school in the world of applied science. He took in the boy, Alfred Thompson, who developed best in what Edison called the line of "heavy machinery."

At one time in the mid eighties of the last century I had not visited the laboratory in months, and when I did Edison met me in the same wholehearted spirit as ever. We sat and chatted, and it soon became apparent to me that he had something new and good.

"Look here," said Edison, pointing to a short, pillar about three feet high which stood in a recess. Somewhat mystified I approached the pillar and noted a large magnifying glass about five inches wide inserted in the top of it—at least the uppermost side of the crystal was convex.

"Look in," said Edison. "What do you see?"

"Nothing," I answered cautiously, knowing his delight in a surprise.

"Let me see," he said, and began manipulating some devices on the outside of the pillar. Instantly there flashed a light within the pillar, illuminating a small moving figure apparently three inches high.

"Alfred!"

And it was, the most living, actual moving figure, a perfect, rounded homunculus I could conceive. The boy's handsome face lit up by a yard wide smile gazed at me with laughing eyes. He was dancing, turning, swinging his arms, never resting an instant in an endless whirl of delight. Snap! Cut went the light and the figure disappeared.

"You recognized him?" said Edison.

"Of course," I answered, and I may say now, that never since, through all the phases of the "movies," have I seen an entirely lifelike figure stand out so solid

line of mules was strung out for a quarter of a mile, and on foot among them were five packers, all half-breeds.

The officer heard no signal of danger, no cry of alarm. With the swiftness of thought the snow, five hundred feet up the mountain, began to move. The width of the avalanche was about half a mile, and it moved very rapidly. There were thousands of tons of snow, hundreds of trees, hundreds of great boulders.

In a few moments it was all over, and a cloud of what seemed smoke hung over the spot. It drove off down the mountain after two or three minutes, and the officer looked for his pack train.

Not a man nor a mule had escaped. He looked for the cabins, and they, too, had disappeared. Indeed, the very trail had been swept down into the valley a mile below, and almost across it. For a space of half a mile wide there was neither tree nor shrub—not a yard of earth. The avalanche had ground its way down to the rocks.

His eyes twinkled, and the "concentration line" which cuts so deep between his eyebrows relaxed. In a drift of our chat I asked:

"How is Alfred getting along?"

"I'll show you," he answered. He arose calling me to follow, and led me outside the building. I looked up and down, but no sign of Alfred. I concluded that the lad was working in the machine shop and that we were going there.

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## Tragedy of an Avalanche

A N American officer tells a moving story of sudden and swift destruction in our Northwest. It happened on a

February day, when a warm sun and a Chinook wind from the Pacific was melting the snow. All along the trail, as the officer and his party wound up the mountain side, great masses of snow seemed to overhang them, and more than once the officer noticed how anxious the grizzly-haired old guide seemed to be. Only a narrow path had been cleared through the snow, and the twenty mules followed one another in single file.

Halfway up they came to four cabins occupied by miners. Three brawny men in red shirts stood at the door of one of the cabins talking as the party filed past. Salutes were exchanged, but the officer's party had no occasion to halt.

They had gone about three hundred feet, and were about to make a turn in the trail, when the leader halted to look back. The guide was ahead—the officer second. The